**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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| **Application by Verizon New Jersey, Inc.** | **)** | |
| **for Authorization to Provide** | **)** | **CC Docket No. 01-347** |
| **In-region, InterLATA Services in** | **)** | |
| **The State of New Jersey** | **)** | |

# COMMENTS OF THE METROPOLITAN TELECOMMUNICATIONS

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# *Table of Contents*

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# COMMENTS OF METROPOLITAN TELECOMMUNICATIONS

Manhattan Telecommunications Corporation d/b/a Metropolitan Telecommunications a/k/a MetTel ("MetTel") through undersigned counsel hereby submits these comments in response to the Commission's *Public Notice* in the above-captioned proceeding.[1] The Public Notice invites interested parties to comment on the Application of Verizon New Jersey, Inc., and its subsidiaries ("Verizon") to provide in-region interLATA services in the State of New Jersey, pursuant to section 271 of the Communications Act of 1934, as amended (the Act).

Verizon has not demonstrated compliance with all sections of the competitive checklist.[2] Verizon specifically fails checklist item ii as it pertains to OSS functionality. Additionally, in light of the serious billing problems experienced in Pennsylvania, MetTel is currently investigating the New Jersey bill. However, as a new entrant, MetTel has had few resources to devote to this investigation until recently. Consequently, it is not prepared to

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1 *Public Notice*, Comments Requested on the Application by Verizon New Jersey, Inc. for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New Jersey, DA 01-2994 (December 20, 2001) ("*Public Notice*").

2 47 U.S.C. 271(c)(2)(B).

offer detailed comments on billing at this time. Therefore, these comments will focus on Verizon's OSS functionality in New Jersey.

Since Verizon has not met the full requirements of the checklist, and in light of Verizon's actual performance, the Commission must deny the application at this time.

## I. INTRODUCTION

MetTel is a New York based Competitive Local Exchange Carrier licensed in New Jersey; and has been providing service to New Jersey customers since July 2001. MetTel delivers its telecommunications service to customers over the unbundled network element ("UNE") combination known as the UNE Platform ("UNE-P") as well as through resale.

During the proceeding before the New Jersey Board of Public Utilities, MetTel presented evidence that Verizon's OSS in New Jersey suffers from serious system problems which Verizon has failed to adequately address.

MetTel's analysis demonstrates that there exist serious issues with respect to the accuracy of the data transmitted by Verizon. Since CLECs must in rely on the data generated and transmitted by Verizon's systems, inaccurate data has severe negative impact on a CLEC's ability to enter and penetrate the New Jersey market.

## II. PERFORMANCE OF VERIZON'S OSS

Section 271 requires ILECs to offer nondiscriminatory access to OSS functions. Specifically, Section 271(c)(2)(B)(ii) ("Checklist Item 2") of the 271 Competitive Checklist requires Verizon to provide "nondiscriminatory OSS access to network elements in

accordance with the requirements of sections 251(c)(3) and 252((d)(1).[3] MetTel has demonstrated that a significant percentage of the data that Verizon's systems in New Jersey generate and transmit is inaccurate. Rather than seriously address MetTel's concerns and take steps to correct the problems identified by MetTel, Verizon has treated these claims in an off-hand and dismissive manner.

Verizon's cynical approach notwithstanding, the issue of data accuracy is critical to the entire CLEC industry. In addition to creating ongoing operational problems with data that is not meaningful or useful, Verizon uses the inaccurate data in its reports on performance measures making actual performance impossible to determine. This Commission has previously held that "the reliability of reported data is critical: the performance measures must generate results that are meaningful, accurate and reproducible".[4] Neither Verizon's operational information, nor the data (which is based on this information) that Verizon reports for performance measures purposes meets these requirements.

As a result of the poor reliability of some of the data provided by Verizon, CLECs are forced, at great cost, to investigate, clarify and correct false data. In the course of its efforts to investigate, clarify and correct Verizon's data, MetTel has documented serious deficiencies with respect to Verizon's performance in New Jersey during the period of June to October 2001. This information was presented to the New Jersey Board of Public Utilities. In response to MetTel's findings, Verizon offered a series of "explanations" which MetTel has

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3 *See Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, Memorandum Opinion and Order, 15 FCC Rcd 3953, ¶ 84 (rel. Dec. 22, 1999) ("*Bell Atlantic New York Order*").

4 Memorandum Opinion and Order, CC Docket No. 00-217, released January 22, 2001, ¶278. (Order approving the application of Southwestern Bell Telephone Company to provide InterLATA service in Kansas and Oklahoma).

subsequently demonstrated to be without merit. Despite repeated requests, Verizon has been unable or unwilling to provide clear and convincing evidence in support of its assertions.

**A. Comparison of Verizon's OSS Performance in New Jersey to Other States**

In arguing that its application to provide InterLATA service in New Jersey, Verizon has routinely relied on comparisons between its performance in New Jersey and its performance in states where 271 relief had been granted. Specifically with respect to the functioning of its OSS, Verizon refers to the FCC decisions in New York, Massachusetts, Connecticut and Pennsylvania.[5] Verizon provides support for the validity of such a comparison:

> The EDI and Web GUI ordering interfaces used in New Jersey are the same as New York, Massachusetts, Connecticut and Pennsylvania, previously approved by the FCC. As with pre-order, these interfaces implement the industry standard LSOG version 4 and version 5 specifications. … Moreover, the gateways and interfaces used by CLECs in New Jersey are the same systems used by CLECs throughout the former Bell Atlantic jurisdictions. These systems have processed over 7.7 million orders from January to September 2001. What is distinct is the Service Order Processor ("SOP") used in New Jersey, and it is this SOP that was successfully volume-tested for *regionwide* volumes by KPMG.[6]

It is precisely because Verizon relies in part on the comparison between OSS performance in New Jersey and other states, that MetTel provided evidence to the BPU that Verizon's OSS function in New Jersey is in fact significantly below its level of function in Pennsylvania.[7] Ironically, despite seeking to establish an equivalency between the New Jersey OSS and the systems in other states, Verizon claims that MetTel's comparison is not

[5] Initial Brief of Verizon New Jersey, Inc. Before the New Jersey Board of Public Utilities, DOCKET NO. TO01090541VZ. Dated December 7, 2001. ("Verizon Brief") p. 65.

[6] Verizon Brief pp. 65-66.

[7] Appendix A – Charts 1 and 2.

legitimate.[8] Verizon claims that MetTel's comparison disregards differences in product and feature mixes that might exist between states.[9] Logically, if product and feature mixes may vary so significantly and impact performance so greatly from state to state, then Verizon's performance in any particular jurisdiction has no bearing on determining whether its performance in any other jurisdiction is acceptable.

Despite wishing to rely on past favorable reviews, Verizon is unwilling to bear the consequence of such comparisons and reliance when the results are not favorable. Verizon makes no good faith effort to honestly examine the root cause of the trouble experienced by the CLEC, preferring instead to blame the CLEC itself.

In the case of MetTel's analysis, Verizon claims that MetTel's order quality in New Jersey is below its order quality elsewhere and specifically that MetTel is compelled to fix its LSRs after they have been submitted to Verizon.[10] In making this statement, Verizon implies that MetTel is behaving differently in New Jersey than in other states.[11]

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[8] Verizon Brief p. 70.

[9] Ibid.

[10] Verizon Brief p. 70.

[11] There are however, other more plausible, explanations for Verizon's observation that MetTel has to occasionally resubmit LSRs. Verizon's National Market Center (NMC) in New Jersey is relatively new. Frequently, representatives in New Jersey's NMC erroneously reject orders. These same orders are later accepted and processed after MetTel escalates the matter to the representatives' supervisors. Therefore, MetTel is often forced to resubmit the same order because the New Jersey NMC personnel make errors at a higher rate than employees working at other centers.

Additionally, New Jersey NMC representatives frequently reject orders for not complying with local New Jersey business rules which are different from rules in other jurisdiction (for the same systems). In response to MetTel's requests for documentation detailing these rules, NMC personnel stated that these local rules are not documented. Furthermore, some of these local rules directly conflict with published EDI rules. This would mean that an order would be rejected as a direct result of **complying** with these unpublished local rules.

Not surprisingly, Verizon did not even consider this alternative explanation, and is not likely, absent a directive from the Board, to closely examine and correct this problem. It must be pointed out that unlike Verizon with its multiple locations, centers and variably trained personnel, MetTel at the present time has the same persons working on the same systems placing orders for both New Jersey and other states. It therefore is entirely nonsensical to claim that for some mysterious reason, the same individuals are placing lower quality orders in New Jersey than elsewhere.

Verizon's claim of different order quality has absolutely no bearing on MetTel's analysis. As Chart #1 in Appendix A clearly demonstrates, the comparison performed between New Jersey and Verizon measured the response rate of Verizon returning an LSR confirmation **or** rejection notice. If the order is of "poor quality" and must be rejected, this would in no way affect the analysis. Verizon's claims in no way alter the fact that it takes Verizon's systems three times as long to perform the same operation in New Jersey as in Pennsylvania. Notably, Verizon's "order quality" explanation is even more inappropriate when applied to the findings regarding other OSS transactions as detailed in Chart #2 of Appendix A, since all of those transactions occur after an order has already been confirmed. This analysis also demonstrates a serious discrepancy between Verizon's performance in New Jersey and its performance in Pennsylvania.

The importance of the results of the comparison between New Jersey and Pennsylvania performance is that it shows that systems, which Verizon has claimed to be virtually identical,[12] behave in very different ways. As Verizon's internal systems are a "black box" to CLECs, the reality of this different behavior calls into question many of Verizon's assertions. Either the systems are not virtually the same, in which case there should be no reliance on the Pennsylvania experience to predict experience in New Jersey; or some internal problem is causing the New Jersey system to malfunction, in which case a thorough review of the systems is called for.

### B. Accuracy of Completion Notifiers Transmitted by Verizon

MetTel has repeatedly attempted to call attention to the fact that the Provisioning Completion Notices and Billing Completion Notices (PCNs and BCNs) or "completion

[12] Verizon has represented that they systems for these two states are the same with the exception of the SOP system which is separate for New Jersey.

notifiers" generated and transmitted by the Verizon systems do not in fact reflect the completion of the operation that they are supposed to represent. In these instances such notifiers are simply *false*. As the Commission is aware, these notifiers are critical. It is based on these notifiers that CLECs submit orders (subsequent to migration) on behalf of their customers, bill their customers, and otherwise interact with their customers regarding the customers' accounts. Since CLECs rely on these notifiers for the information necessary to interact with customers, the timeliness of these notifiers is a serious issue.

This issue is so critical in fact that there are metrics setting forth timeliness standards for the delivery of notifiers. These metrics were put in place in many jurisdictions with the obvious assumption that the actual notifiers delivered to CLECs do in fact represent completed work. Clearly, measuring the timeliness of notifiers absent that assumption is a useless exercise. MetTel's analysis clearly demonstrates that the data transmitted by Verizon in the form of completion notifiers is not accurate for a significant percentage of cases. MetTel has used usage data to perform its analysis and its results are outlines in the attached exhibits (Appendix A).

Usage data is the recording of telephone service use by end-users, which MetTel receives from Verizon on Daily Usage Files. The information in these files includes the times and dates of telephone calls placed by end users. What MetTel has found is that the usage data does not confirm to the information supposedly relayed by the notifiers. In analyzing the usage data, MetTel has found that usage for a significant percentage of customers starts at a significantly later date than the notifier date and sometimes does not begin at all. This means that Verizon either did the underlying work later than it claims on the notifier or simply never performed the actual work.

MetTel has seen missing and delayed usage for migrations and missing and misdirected usage for requests to change long-distance carriers. The only reasonable conclusion that can be drawn from these results is that the operation, which is supposed to be signaled by the completion notice, did not in fact take place. Verizon argued that MetTel's analysis should be disregarded. On December 4, 2001, MetTel submitted a Letter Motion to Compel more complete responses to some of MetTel's transcript data requests. The New Jersey Board of Public Utilities did not issue a ruling on this motion. Consequently, reasonable support for Verizon's statements which allegedly refute MetTel's claims has not been provided by Verizon. MetTel will therefore address some of the issues it raised in the motion in these comments.

**1. Missing or Delayed Local Usage**

Verizon has presented a number of "explanations" which it claims account for the problem of delayed and missing usage experienced by MetTel. Verizon responds to MetTel's claims by pointing out that KPMG has tested usage after migration and has not found Verizon wanting.[13] In contrast to the KPMG test however, the data presented by MetTel represents a CLEC's real market experience with Verizon systems. Competition will or will not develop in New Jersey based on the actual interaction of CLECs with Verizon's systems and not based on an incomplete and contrived KPMG analysis.

Verizon has claimed that many instances of missing usage following migration could be explained because the winback to Verizon occurred shortly after the migration to MetTel. During BPU hearings, the witness for Verizon did admit that in the ordinary course of events, a carrier should receive usage during the time between the completion notifier date and the

[13] *Verizon NJ Reply Declaration in Response to Metropolitan Telecommunications*, page 9, paragraph 16.

effective date of loss.[14] Under this operational scenario, the winback would have to take place almost instantaneously in order for MetTel to receive no usage at all following the receipt of the migration completion notifier.[15] MetTel requested that Verizon identify, from the set of orders provided by MetTel, which missing usage cases were examples of this "quick winback" scenario.

The specific examples provided by Verizon are non-responsive and entirely irrelevant. They include a set of instances for which MetTel never claimed missing local usage, instances where the individual appears not to have left MetTel, and a set of account PONs where over 80% of the customers were shown to have been with MetTel for at least over one week. In fact, the average time that these customers received service from MetTel was 45 days. MetTel measured this interval from the completion notice date to the effective date on the Loss of Line report, also provided by Verizon. Therefore, MetTel relied entirely on data produced and transmitted by Verizon in performing its analysis. [16] Therefore, Verizon has once again provided an "explanation" which, while reasonable-sounding simply does not stand up to scrutiny.

Verizon also attempts to explain a usage delay by pointing out that since some of MetTel's customers are businesses, it is reasonable to find no usage occurring during a weekend. MetTel has been observing this phenomenon of missing and delayed usage in other states and for both business and residential customers. Nevertheless, to protect its analysis from just this type of challenge, MetTel begins to calculate delayed usage following a three-

[14] Transcript for BPU Docket No. TO-001090541 dated November 20, 2001, page 1566, line 3.

[15] If winbacks are indeed occurring with such lightning speed, it might point to another serious problem that may exist with respect to the improper sharing of data between Verizon's retail and wholesale operations. The possibility that such a problem exists warrants further scrutiny.

day delay. Unless all instances of delayed usage occur for businesses, where the completion notifier happens to fall on a Friday, before a long weekend or national holiday, this Verizon explanation is as deficient as the others.

None of the explanations and alternative scenarios offered by Verizon are supported by evidence, whereas MetTel's analysis is accompanied by information which Verizon has not been able to refute. There is clearly a significant percentage of local migrations PONs which receive BCNs despite the fact that the underlying work has not been completed. This is an extremely critical situation which requires a sober inquiry into Verizon's OSS in New Jersey.

**2. Missing or Misrouted Long-Distance Usage**

MetTel provided evidence for its statement that a significant percentage of its long-distance usage is missing or has been misdirected. MetTel submits this as evidence that completion notices for requests for a change (or initial identification) of a long-distance carrier do not represent the completion of work. In response to this claim, Verizon again presented a series of scenarios to explain MetTel's findings. Most prominent is Verizon's claim that often, where MetTel is claiming misdirected long-distance usage, this resulted because MetTel failed to indicate a change of Preferred Interexchange Carrier (PIC) on its order. In response to MetTel's request for examples of instances of this occurrence[17] Verizon again provided irrelevant data, consisting simply of examples where MetTel has placed orders without indicating a PIC change. Whether there are or are not instances of such orders is entirely immaterial. The analysis performed by MetTel which demonstrated a significant

[16]If MetTel is drawing the wrong conclusion from its analysis, it can only be doing so as a result of false information contained in Verizon's Loss of Line reports.

[17] MetTel transcript request transcript page #1567-1570, dated Nov. 20, 2001.

percentage of missing or misdirected long-distance usage, was performed only on PONs where a PIC change was indicated. Verizon's refusal to accept this, has lead them to analyze the wrong set of data in response to MetTel's 2nd transcript request.

The missing or misrouted long-distance usage documented by MetTel simply means that, in contravention of the customer's affirmative choice of long-distance provider, Verizon's error causes service to be provided by a carrier that the customer did not select. Such errors on the part of Verizon have serious negative consequences. Because in the instances presented, MetTel was the long-distance carrier selected, MetTel suffered revenue loss. In such cases MetTel also endures loss of credibility when the customer does not receive what he or she ordered and understandably holds MetTel responsible. No less important is the fact that, since MetTel bills its customers based on the BCN, Verizon's errors may cause the customer to be double billed.

Finally, Verizon admits that there are occasional Verizon errors in the PIC assignments but that those occur infrequently.[18] This clearly has not been MetTel's experience. Verizon sites to the C2C metrics and reports in support of its position.[19] MetTel's independent analysis has shown a dramatically different situation. This disparity of results illustrates an important reality that MetTel has been attempting to have seriously addressed for some time. Namely, the fact that metrics calculations are based solely on Verizon-submitted data and are not independently verified by a third party, will always mean that the functioning of the metrics regime is entirely dependent on the accuracy and honesty of Verizon's reporting of its own performance. MetTel's analysis clearly demonstrates that reliance on Verizon's good faith in this regard is simply not justified.

[18] *Verizon NJ Reply Declaration in Response to Metropolitan Telecommunications*, page 11, paragraph 21.

Verizon has frequently attempted to marginalize MetTel's concerns, claiming that MetTel might be experiencing "specific performance problems" which it could have addressed by opening a trouble ticket. In fact, what MetTel has been pointing out are system problems that affect the industry as a whole and call into question the validity of Verizon's entire notifier system and therefore the performance level of its OSS. This Commission should encourage Verizon to take these claims seriously and to fix its system problems. However, regardless of any commitments that Verizon might make to address and correct these problems in the future, the fact of these serious problems exist currently, precludes the Commission from granting Verizon 271 authority in New Jersey at the present time.

**C. Timeliness and Accuracy of Verizon's Responses to Trouble Tickets**

In its initial comments before the New Jersey BPU in this matter, MetTel stated that it "routinely examines the speed at which Verizon responds to trouble tickets." MetTel explained that "timely resolution of trouble tickets is critical, as it is the tool that permits the CLEC to respond to customer problems quickly and effectively." Nevertheless, MetTel consistently finds Verizon's response to trouble tickets is seriously sub-standard. Specifically, MetTel has found that approximately 40% of the trouble tickets submitted by MetTel are not resolved within a commercially reasonable 3 business days.

Verizon delivers the explanation that "Verizon NJ clears a PON on a PON Exception trouble ticket by asking the CLEC to resend the PON, or by providing the current status of the PON and re-flowing the delayed status notifier *where such notifier exists*."[20] MetTel has repeatedly taken exception to Verizon's creating of a dichotomy between "clearing" and "solving" a trouble ticket. Evidently, "clearing" a trouble ticket is what is done to meet the

[19] Ibid.

trouble ticket metric whereas "solving" the trouble ticket occurs when necessary information that Verizon was not able to provide in a timely fashion is finally relayed to the CLEC.

When a notifier is missing and a CLEC submits a trouble ticket for this notifier, the only useful Verizon response (other than asking the CLEC to resend the PON) is to provide the missing notifier or a reason why it cannot do so (in the form of a jeopardy notice, etc.). Verizon states that it is not reasonable to demand this when the notifier does not "exist", however, if the notifier is due and it does not "exist" it means sometime is wrong with Verizon's systems or the manner in which these systems are updated. Providing the CLEC with the last known notifier instead of the one for which the trouble ticket was submitted and without additional explanation, in no way helps the CLEC to service its customer and answer service related customer questions. In fact, such action by Verizon only serves to compound the problems that are created by its own poor performance with respect to notifiers and data accuracy in general. Verizon has not been able to produce any meaningful data refuting MetTel's claims with respect to trouble tickets.

## III. CONCLUSION

Local exchange competition in New Jersey is small and extremely fragile. Competitive carriers serve less than 2% of the lines in New Jersey. Verizon states "the 1996 Act does not require Verizon NJ to demonstrate a particular amount of competition in the local market in order to qualify for section 271 relief."[21] However, in order to be in compliance with the Telecommunications Act of 1996, Verizon must demonstrate that the local exchange market in New Jersey is irreversibly open to competition. Given the stark

[20] *Verizon NJ Reply Declaration in Response to Metropolitan Telecommunications*, page 12, paragraph 23.

reality of the near non-existence of competition in New Jersey, it is simply impossible for Verizon to demonstrate that.

In order for competition to have any chance of developing, Verizon's OSS must be functioning properly. The OSS is a cornerstone system. If it is not performing excellently (with respect to both the timeliness and accuracy of the information it transmits) local exchange competition will fail in New Jersey.

MetTel has provided auditable data to Verizon and the BPU in support of all of its claims of system problems. Verizon, on the other hand, has not been able to provide clear and valid proof to refute MetTel's claims. Given the vastness of Verizon's resources, if MetTel's analyses or conclusions had been wrong, Verizon would have been able to demonstrate this. It has not done so.

It is MetTel's strong position that at the present time, Verizon has not met requirements in the service it provides to CLECs to justify its application to provide interLATA service in New Jersey being approved. Therefore, MetTel urges the Commission to deny Verizon's section 271 application.

Respectfully Submitted,

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[21] Verizon Brief, p.2.

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